

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMIE ANDERSON, JACKIE
ANDERSON, XARIA ANDERSON and
SHAE ANDERSON,

Plaintiffs,

v.

KITSAP COUNTY, KITSAP COUNTY
SHERIFF'S DEPARTMENT, TIM
PETERSON, SERGEANT JIM WHITE
and OXFORD SUITES AFFILIATION
OF HOTELS,

Defendants.

CASE NO. C09-5282 KLS

ORDER ON DEFENDANTS'
MOTION TO STRIKE

The two remaining defendants in this action, Tim Peterson and Oxford Suites Affiliation of Hotels filed a Motion for Summary Judgment (Dkt. 32) on June 23, 2010 with a noting date of July 16, 2010. The Plaintiffs' Response was due on or before July 12, 2010, or 19 days after the initial motion was filed. The Plaintiffs did not file a timely Response. The Defendants then filed a Reply on July 15, 2010 (Dkt. 34) advising the Court that the Plaintiffs had not filed a Response

1 and noting that pursuant to Local Rule 7(b)(2), failure to respond “may be considered by the
2 court as an admission that the motion has merit.”

3 It was not until Thursday, August 5, 2010 that the Plaintiffs filed a declaration by Jamie
4 Anderson (Dkt. #35) and not until Friday, August 6, 2010 that the Plaintiffs filed their Response
5 (Dkt. 36). These documents were filed without any prior contact with defense counsel or the
6 court and with absolutely no explanation as to why the declaration was twenty-four days late and
7 the response was twenty-five days late. Plaintiffs’ counsel did not seek permission from the
8 Court to file such a late pleading nor did he bother to file an explanation offering any excuse for
9 being so late. This is not the first time this Court has encountered extremely late filings by
10 counsel for the Plaintiffs.

11 The defendants’ request, filed August 9, 2010, asks that the undersigned strike the
12 Plaintiffs’ extremely untimely pleadings and not consider them for purposes of the defendants’
13 summary judgment motion. The Plaintiffs have not responded to this request nor is the Court
14 seeking a response. Rather, the Court is faced with making a choice between permitting
15 plaintiffs’ to pursue whatever claim may remain for trial, if any, based on a review of all
16 pleadings filed or denying them that chance. While the undersigned is of the opinion that
17 striking the pleadings is one appropriate response, the Court is of the view that the plaintiffs
18 should not suffer consequences such extreme consequences because of their attorneys inaction.
19 The Court, therefore, will not strike the responsive pleadings and the Defendants shall file their
20 Reply on or before August 27, 2010. In addition, Clayton Longacre shall be personally
21 responsible for all attorney fees of the defendants as to time expended on the summary judgment
22 motion from July 15, 2010 forward. Once the Court has ruled on the motion for summary
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1 judgment, and regardless of the outcome of the motion, counsel for the defendants shall file
2 appropriate documents supporting their fee request for time spent.

3 Counsel are reminded that mediation **must** be completed **on or before August 31, 2010**
4 and that a mediation report shall be filed as required. In addition, Jamie Anderson **shall** be
5 present in person and participate in the mediation.

6 The Court also notes that trial is still scheduled to commence September 30, 2010.

7 The Clerk is directed to renote the Defendants' Motion for Summary Judgment (Dkt. 32)
8 for Friday, August 27, 2010.

9 Dated this 13th day of August, 2010.

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12 Karen L. Strombom
13 United States Magistrate Judge
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